

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Independent Telephone Association)	
)	
)	Docket No. 00-0233
Petition for initiation of an investigation)	
of the necessity of and the establishment)	
of a Universal Service Support Fund in)	
accordance with Section 13-301(d))	
of the Public Utilities Act)	
)	
Illinois Commerce Commission)	
On its Own Motion)	
)	Docket No. 00-0335
Investigation into the necessity of and, if)	
appropriate, the establishment of a Universal)	(Consol.)
Support Fund pursuant to Section 13-301(d))	
of the Public Utilities Act)	

REPLY BRIEF OF AMERITECH ILLINOIS ON REHEARING

Ameritech Illinois, by one of its attorneys, submits this Reply Brief in response to the briefs submitted by the Illinois Independent Telephone Association (“IITA”); Leaf River Telephone Company, Montrose Mutual Telephone Company, New Windsor Telephone Company, Oneida Telephone Exchange, Viola Home Telephone Company, Woodhull Community Telephone Company (“Intervenors”); Harrisonville Telephone Company (“Harrisonville”); Verizon North Inc. and Verizon South Inc. (“Verizon”); and the Illinois Commerce Commission Staff (“Staff”).

I. The Commission Should Not Set an Affordable Rate Lower Than \$22.23.

None of the parties have demonstrated that the Commission should lower the affordable rate from the \$22.23 adopted in the Commission’s September 18, 2001 Order

(“Order”). The reasons cited by the funded companies for lowering the affordable rate are without merit and should be rejected.

First, some of the funded companies argue that there is no evidence in the record to support an affordable rate of \$22.23. See IITA Br. on Reh., p. 4. (“No other party presented any facts or computation into evidence that would support a \$22.23 comparable affordable rate or that would refute the correct computation being \$20.39.”); Harrisonville Br. on Reh., p. 1. (“No other party presented factual evidence from which the Commission can reasonably determine (based on evidence of record) that Verizon’s average residential rate is \$22.23.”)

This is not accurate. The funded companies’ argument is based on a challenge as to the proper amount of Verizon’s usage additive – whether \$5.24 or \$3.40 should be added to the basic rate of \$16.99. Ameritech Illinois did present factual evidence to support an affordable rate of \$22.23. Ameritech Illinois presented evidence that the amount of usage is higher in flat rate exchanges, such as the funded companies have, versus measured service exchanges. Ameritech Illinois’ experience in Illinois, Indiana and Ohio demonstrated that there is a higher volume of calls in flat rate exchanges. See Ameritech Illinois Ex. 1.0 on Rehearing, p. 7; Ameritech Illinois Initial Br. on Reh., p. 3 - 4. Thus, the 100 calls estimate set forth by Verizon is not unreasonable and may, in fact, be low.

Staff properly pointed out in its initial brief that the usage additive rate of \$0.034 per call, which if adopted, would lower the affordable rate to \$20.39, is based on the rate for home exchange calls only. Staff Br. on Reh., p. 6. It would exclude EAS calls. As

Ameritech Illinois pointed out in its initial brief (Ameritech Initial Br. on Reh., p. 2 - 3), EAS calls should be included. An addition of \$3.40 is, therefore, too low.

Second, the funded companies' allegations regarding the lack of a factual record mask the critical flaw in their arguments to lower the affordable rate. The funded companies themselves have failed to demonstrate that the 100 call figure is too high. There has been no demonstration by each of the funded companies that their customers average less than 100 calls per month. For example, Harrisonville concedes that there has not been sufficient time for the small companies to determine what their actual call counts are per month and that it is impossible to make a determination of what an appropriate level of local usage would be without having this actual data. Harrisonville Br. on Reh., p. 5 (citing Harrisonville Ex. 1.0 on Reh. pp. 8-9). Instead, only 5 companies presented data which they claim reflects a monthly average of less than 100 calls. See Harrisonville Br. on Reh., p. 4; Intervenor's Br. on Reh., pp. 4-6. This limited data hardly supports Intervenor's broad claim that "[t]he uncontradicted evidence is that small independent telephone company subscribers do not make 100 local calls per line on average as Verizon originally estimated." Intervenor's Br. on Reh., p. 6.

The Intervenor's took issue with the data that Ameritech Illinois presented, arguing that Ameritech Illinois' statistical evidence was based on company-wide residential usage, although Ameritech Illinois has several exchanges with less than 1000 access lines and did not present data for those rural exchanges only. Intervenor's Br. on Reh., p. 6. Intervenor's conducted discovery on Ameritech Illinois, but as Ameritech Illinois' witness, J. Thomas O'Brien, pointed out in testimony, they did not request information for exchanges with less than 1000 access lines. Tr. 1098. Furthermore, the purpose of

Ameritech Illinois' evidence relative to the average number of calls in Illinois, Indiana, and Ohio was presented to demonstrate that customers in exchanges with flat-rate service make more calls than customers in exchanges with measured rate service. Its purpose was not to compare the average number of calls for Ameritech customers with the average number of calls for the small companies' end users.

Finally, the Commission should reject Harrisonville's argument that Verizon's average \$16.99 base rate is also inappropriate based on Harrisonville's claim that \$16.99 is inconsistent with TA 96's requirement that rates in rural areas be reasonably comparable to rates in urban areas. Harrisonville Br. on Reh., pp. 5-6.

Section 254 (b) (3) of TA 96 states in part:

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas (emphasis added).

In its testimony in this proceeding, Harrisonville omitted the reasonable requirement and merely contended that TA 96 requires that "...rates for rural areas must be comparable to rates charged in urban areas..." Harrison Ex. 1 on Reh., p. 9.

TA 96 does not require rates to be exactly the same. It requires reasonably comparable rates as Harrisonville itself concedes in its Initial Brief on Rehearing. Harrisonville Br. on Reh., p. 7. Harrisonville has not made an adequate showing that \$16.99 is not reasonably comparable to rates in urban areas.

For all of the above reasons, the Commission should reject the arguments raised by the IITA, Harrisonville and the Intervenors to lower the affordable rate from \$22.23 to \$20.39.

II. The Commission Should Authorize Support for Primary Residential Lines and Single Business Lines Only.

The Commission's September 18, 2001 Order adopted a requirement that support be limited to primary residential lines and single business lines. Ameritech Illinois advocated this position throughout the hearings. To do otherwise would require the end users of a funding carrier to provide support to the end users of a funded carrier for discretionary services. Such subsidization could create a situation where urban end users end up funding well-to-do customers in rural areas.

The IITA, Harrisonville, Intervenors and Staff advocate instead that support be provided for all access lines. There are three general arguments made: 1) the small companies cannot meet their revenue requirements unless they receive support for all access lines; 2) the FCC requires support for all access lines and thus the intrastate fund should also do so; and 3) it would be burdensome and difficult, both administratively and from an enforcement perspective, if only primary residential lines and single business lines are covered.

The IITA claims that if the qualifying amount for each company is reduced because of a limitation on the lines covered or for any other reason, the effect on the funded companies would be to reduce their earnings below their established rate of return levels. IITA Br. on Reh., p. 6. This concern about reduced earnings is shared by Intervenors and Harrisonville. This claim should be scrutinized very closely by the Commission because what the IITA and the other funded companies are requesting is that their rate of return levels be met by the customers of the funding companies.

The IITA expressed the concern that demand for second lines will diminish dramatically if they raise the prices. See IITA Br., pp. 7-8. Harrisonville argues that

small companies have only “three ways to recoup rate of return deficiencies.” This would be to: 1) raise their charges for local service; 2) raise access prices; 3) receive sufficient state universal support funding from the Commission. See Harrisonville Br. on Reh., p. 9. Similarly, Intervenor argues that the lack of funding of secondary lines would have a drastic impact on rural services including schools, libraries, etc.

It is unlikely that the results would be so drastic. Ameritech Illinois’ witness, Mr. O’Brien, pointed out in his testimony that there are numerous other ways that local exchange carriers can generate revenues. Mr. O’Brien suggested that a funded company could raise the rates on all of its access lines, instead of only raising the rates on the secondary lines, and collect those revenues from its own end user customers. Tr. 1087-89. He also testified that there were numerous other sources from which funded companies could obtain additional revenues, including CLASS/central office services and vertical services. Carriers with modern switches could also introduce new services, including services such as privacy manager. Tr. 1089-90.

The high cost fund should not be used as a keep-whole mechanism. Staff expresses the concern that subscribers to secondary lines might experience rate shock, if high cost funding is not granted for the support of secondary lines. Staff Br. on Reh., p. 9. High cost fund support is not used as a subsidy to individual customers. Rather, it is a subsidy to the funded companies themselves. The way to make up any shortfall is not necessarily through only the second lines. Rather, it may be through raising the rates on all lines or through other services as discussed above. In fact, the funded companies are seeking the best of both worlds. They are proposing that the affordable rate be lowered to \$20.39 and that all lines be funded. This would mean that the funded companies

would charge the lower affordable rate for all lines, including second and additional lines, and receive a higher funding amount because of having lower rates for all of these lines. Ameritech Illinois is not opposed to the companies receiving the revenues they deserve, however, as much as possible should come from their own subscribers, not the customers of other companies. Therefore, even if the Commission were to decide to fund all lines, that action would support an even greater need to have an affordable rate of at least \$22.23 so that funding from other companies for additional lines be kept to a minimum.

A second argument raised by Intervenors and Harrisonville is that to support only primary residential lines and single business lines would be inconsistent with either TA 96 and the FCC's decision to support all access lines and/or the Illinois statutory requirement to support at a minimum the services supported by the FCC. See Intervenors Br. on Reh., p. 9; Harrisonville, Br. on Reh., p. 8. Section 254 (f) of TA 96 provides that "[a] state may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service." Intervenors and Harrisonville would pick and choose what is inconsistent. They complain that the Commission has ordered support for primary residential lines and single business lines only and not all access lines, as the FCC did, but they ignore the fact that the FCC provides funding to all carriers. Yet, under Section 13-301(d), high cost support is limited to those companies who received support under the High Cost and DEM Weighting Funds. Intervenors and Harrisonville choose to ignore this difference between the interstate universal service fund and the Section 13-301(d) fund being established in this proceeding.

Finally, the IITA, Staff and Intervenors all argue that it would be burdensome and difficult to administer or enforce the requirement that only primary residential lines and

second business lines receive support. See IITA, Br. on Reh., p. 8; Staff Br. on Reh. pp. 7-9; Intervenor Br. on Reh., pp. 16-18.

Potential administrative and enforcement issues are not sufficient reasons for the Commission to require the subsidization of discretionary services. Ameritech Illinois' witness explained on cross examination that there is a definition of "primary" line as a service address used by the FCC that could be applied here. Tr. 1083. Moreover, despite the administrative difficulties alleged by Staff and some of the funded companies, there is precedent for distinguishing primary lines from secondary lines. Under the FCC's guidelines, Ameritech Illinois implemented a higher EUCL for secondary lines than the one assessed on primary lines. Tr. 1085. Thus, price-cap carriers have gone through a process where primary lines were designated and treated differently. There is also precedence from earlier high cost cost proceedings. In its Twenty-Seventh Interim Order dated October 16, 1986, issued in Docket No. 83-0142, the Commission set up a high cost fund as some of the small companies' non-traffic sensitive charges were being transitioned from traffic sensitive access charges to end users. In that Order (p. 2), the Commission found that only residence and single line business access lines would be funded.

In sum, the Commission should reaffirm its Order finding that only primary residential lines and single business lines are eligible for support. The Commission's September 18, 2001 Order established a fund size that included all access lines. If the Commission reaffirms its decision to limit support to only primary residential and single business lines, then the fund size should be adjusted accordingly. See Ameritech Ex. 1.0 on Rehearing, Attachment 3.

III. If the Commission Orders a Phase-In, It Should Only Be For a Time Period Necessary to Avoid Potential Rate Shock.

All of the parties discussed in their Initial Briefs whether there should be a phase-in to the affordable rate. The proposals varied. Some of the phase-ins are unnecessarily long given the parties' stated purpose of avoiding potential rate shock. Any fund size adopted by the Commission will be larger than that amount pending conclusion of a phase-in.

Intervenors argue that since most parties agreed to a five-year phase-in in the prior phase of this proceeding, except for Ameritech Illinois who recommended four years, five years would be an appropriate phase-in period. Intervenors Br. On Reh., pp. 24-25. However, they conclude that, assuming the affordable rate is \$20.39, only those companies with rates less than \$17.39 would have five years. Those with rates between \$17.39 and \$20.39 would have \$1.00 annual increases over a three year period. *Id.* The IITA advocates reduction of the affordable rate to \$20.39 and would phase in the affordable rate in six equal increments every six months, commencing on October 1, 2001 and ending on April 1, 2004.

In the earlier phase of this proceeding, many parties advocated a higher affordable rate than that adopted by the Commission and thus a longer phase-in was perhaps appropriate to avoid potential rate shock. Moreover, the evidence in the record demonstrates that some companies are already close to the affordable rate and would not require a lengthy phase-in.

As discussed in its Initial Brief on Rehearing, Ameritech Illinois would modify the IITA's proposal by requiring a minimum increase of \$1.00 each six months for all

companies until it reached the affordable rate level. If a company needed more than \$6.00 to reach the affordable rate level, they could follow the IITA proposal of an increase of one-sixth of the total difference between existing rates and the affordable rate each six months.

The second modification that Ameritech Illinois proposed to the IITA's phase-in was that, if the Commission orders a lowering of the affordable rate to \$20.39, then the phase-in would be reduced to two years with increases each six months of one-fourth of the difference between existing rates and the affordable rates. The minimum increase each six months would again be \$1.00.

As a point of clarification on Ameritech Illinois' Initial Brief, it is Ameritech Illinois' understanding that this is the basic methodology that Staff is recommending. However, Staff is proposing that the phase-in would be four years and three years, respectively, for the \$22.23 and \$20.39 affordable rates. See Staff Br. on Reh., pp. 11-12. Verizon also supports a phase-in period of no more than three years.

Ameritech Illinois requests that if the Commission adopts a phase-in, it adopt the methodology of Staff and Ameritech Illinois, but with the phase-in period of three years if the Commission affirms the affordable rate of \$22.23 and two years, if it lowers the affordable rate to \$20.39. This provides a sufficient time period to avoid potential rate shock.

CONCLUSION

For all of the reasons stated, Ameritech Illinois requests that the Commission affirm its earlier order setting the affordable rate at \$22.23 and limiting supported

services to primary residential lines and single business lines. If the Commission orders a phase-in, the Commission should modify the IITA proposal in accordance with the suggestions of Ameritech Illinois. Ameritech Illinois' recommendations would result in an ultimate fund size of \$7.4 million.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Reply Brief Of Ameritech Illinois On Rehearing and the Proposed Order Of Ameritech Illinois On Rehearing were filed with the Commission via e-docket and served upon all parties electronically and via US Mail on this 25th day of January, 2002.

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